

order pursuant to § 385.207(a) of this chapter. Any holding company system or state commission seeking such a determination shall bear the burden of demonstrating that such determination is warranted.

(c) *Other classes of transactions.* Either upon petition for declaratory order or upon its own motion, the Commission may exclude from the scope of Commission review and authorization under paragraph (a) of this section any class of transactions that the Commission finds is not relevant to the jurisdictional rates of a public utility. Any holding company system or state commission seeking to obtain such a determination under this subsection shall file a petition for declaratory order pursuant to § 385.207(a) of this chapter. Any holding company system or state commission seeking such an exemption shall bear the burden of demonstrating that such an exemption is warranted.

(d) Nothing in paragraphs (a)–(c) of this section shall affect the authority of the Commission under the Federal Power Act (16 U.S.C. 791 *et seq.*), the Natural Gas Act (15 U.S.C. 717 *et seq.*), or other applicable law, including the authority of the Commission with respect to rates, charges, classifications, rules, regulations, practices, contracts, facilities, and services under the Federal Power Act and Natural Gas Act, and with respect to access to books and records under the Federal Power Act and Natural Gas Act.

§ 366.6 Previously authorized activities.

(a) *General.* Unless otherwise provided by Commission rule or order, a person may continue to engage in activities or transactions authorized under the Public Utility Holding Company Act of 1935 prior to the effective date of the Public Utility Holding Company Act of 2005, February 8, 2006, until the later of the date such authorization expires or December 31, 2007, so long as that person continues to comply with the terms of such authorization. If any such activities or transactions are challenged in a formal Commission proceeding, the person claiming prior authorization shall be required to provide at that time the full text of any such authorization

(whether by rule, order, or letter) and the application(s) or pleading(s) underlying such authorization (whether by rule, order, or letter).

(b) *Financing Authorizations.* Holding companies that intend to rely on financing authorization orders or letters issued by the Securities and Exchange Commission must file these orders or letters with the Commission within 30 days after the effective date of the Public Utility Holding Company Act of 2005, February 8, 2006; any reports or other submissions that, pursuant to such financing authorizations, previously were filed with the Securities and Exchange Commission must instead be filed with the Commission, effective February 8, 2006. For the purposes of this section, compliance with the terms of such financing authorizations includes the requirement to notify the Commission of any financing transactions that a holding company engages in pursuant to such financing authorization.

§ 366.7 Procedures for obtaining exempt wholesale generator and foreign utility company status.

(a) *Self-certification notice procedure.* An exempt wholesale generator or a foreign utility company, or its representative, may file with the Commission a notice of self-certification demonstrating that it satisfies the definition of exempt wholesale generator or foreign utility company (including stating the location of its generation); such notices of self-certification must be subscribed, consistent with § 385.2005(a) of this chapter, but need not be verified. In the case of exempt wholesale generators, the person filing a notice of self-certification under this section must also file a copy of the notice of self-certification with the state regulatory authority of the state in which the facility is located, and that person must also represent to this Commission in its submittal with this Commission that it has filed a copy of the notice of self-certification with the state regulatory authority of the state in which the facility is located. Notice of the filing of a notice of self-certification will be published in the FEDERAL REGISTER. Persons that file a notice of self-certification must include a